

SENATE BILL 554

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2003 Regular Session
(3r1347)

ENROLLED BILL
-- Finance/Health and Government Operations --

Introduced by **Senators Teitelbaum and Grosfeld**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Medicaid Reimbursement - Community-Based Services for Children with**
3 **Disabilities**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to apply
5 to the Centers for Medicare and Medicaid Services of the United States
6 Department of Health and Human Services for an amendment to the State
7 Medical Assistance Program to allow the Department to receive certain federal
8 matching funds for *part of* the nonroom-and-board portion of certain residential
9 care costs; ~~requiring stating the intent of the General Assembly~~ *requiring* that
10 the Governor include certain funds in the budget under certain conditions for
11 the Subcabinet for Children, Youth, and Families Resource Fund to create a
12 certain interagency pool; requiring that the interagency pool created under this
13 Act be used to provide certain community-based services and community-based
14 out-of-home placements needed by certain children with mental or
15 developmental disabilities; requiring the Office of Children, Youth, and Families
16 to adopt certain regulations ~~under certain circumstances~~; providing that the Act
17 is not intended to result in the reduction of certain federal funds; providing for

1 the termination of this Act under certain circumstances; and generally relating
2 to community-based services for children with disabilities.

3 BY adding to
4 Article - Health - General
5 Section 15-136
6 Annotated Code of Maryland
7 (2000 Replacement Volume and 2002 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - Health - General**

11 15-136.

12 (A) ON OR BEFORE DECEMBER 1, 2003, THE DEPARTMENT SHALL SUBMIT AN
13 APPLICATION TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES TO AMEND
14 THE STATE MEDICAL ASSISTANCE PROGRAM TO ALLOW THE DEPARTMENT TO
15 RECEIVE FEDERAL MATCHING FUNDS FOR PART OF THE NONROOM-AND-BOARD
16 PORTION OF THE COSTS OF ALL ELIGIBLE RESIDENTIAL CARE THAT ARE RELATED
17 TO THE THERAPEUTIC COMPONENTS OF CARE PROVIDED BY STATE AND LOCAL
18 AGENCIES THROUGH PUBLIC OR PRIVATE PROVIDERS TO INDIVIDUALS UNDER THE
19 AGE OF 21 YEARS.

20 (B) THE APPLICATION SUBMITTED BY THE DEPARTMENT UNDER SUBSECTION
21 (A) OF THIS SECTION:

22 (1) SHALL APPLY TO A RESIDENTIAL CARE PLACEMENT PROVIDING
23 THERAPEUTIC OR REHABILITATIVE SERVICES IN ADDITION TO ROOM AND BOARD
24 SERVICES TO AN INDIVIDUAL WHO IS:

25 (I) UNDER THE AGE OF 21 YEARS; AND

26 (II) IN THE CARE OR CUSTODY OF, COMMITTED TO, OR
27 VOLUNTARILY PLACED BY ANY STATE OR LOCAL AGENCY IN THE STATE; AND

28 (2) SHALL INCLUDE PLACEMENTS IN: RESIDENTIAL PROGRAMS THAT
29 HAVE RATES SET BY THE INTERAGENCY RATES COMMITTEE.

30 ~~(I) GROUP HOMES;~~

31 ~~(II) THERAPEUTIC FOSTER HOMES OR PROVIDERS;~~

32 ~~(III) ALTERNATIVE LIVING UNITS OR PROVIDERS;~~

33 ~~(IV) RESPITE FACILITIES;~~

34 ~~(V) SHELTERS;~~

1 ~~(VI)~~ CRISIS PROGRAMS;

2 ~~(VII)~~ INDEPENDENT LIVING PROGRAMS;

3 ~~(VIII)~~ SCHOOLS; OR

4 ~~(IX)~~ ANY OTHER RESIDENTIAL SETTING FOR WHICH THE STATE IS
5 NOT CURRENTLY RECEIVING FEDERAL MEDICAL ASSISTANCE MATCHING FUNDS
6 FOR THE NONROOM AND BOARD PORTION OF THE STATE MEDICAL ASSISTANCE
7 PROGRAM.

8 ~~(C)~~ ~~(1)~~ FOR FISCAL YEAR 2004 AND EACH SUBSEQUENT FISCAL YEAR, THE
9 GOVERNOR SHALL PROVIDE FUNDS IN THE BUDGET FOR THE SUBCABINET FOR THE
10 CHILDREN, YOUTH, AND FAMILIES RESOURCE FUND ESTABLISHED UNDER ARTICLE
11 49D OF THE CODE IN AN AMOUNT EQUAL TO THE AMOUNT OF FEDERAL FUNDS
12 RECEIVED UNDER SUBSECTION (A) OF THIS SECTION DURING THE MOST RECENTLY
13 COMPLETED FISCAL YEAR, SUBJECT TO ADJUSTMENT IN ACCORDANCE WITH
14 SUBSECTION (E) OF THIS SECTION.

15 ~~(C)~~ ~~(1)~~ IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE GOVERNOR
16 RETAIN ANY ADDITIONAL FUNDS GENERATED BY AN INCREASE IN FEDERAL
17 FINANCIAL PARTICIPATION UNDER THIS SECTION WITHIN THE BUDGET OF THE
18 SUBCABINET FOR THE CHILDREN, YOUTH, AND FAMILIES RESOURCE FUND
19 ESTABLISHED UNDER ARTICLE 49D OF THE CODE, IN AN AMOUNT EQUAL TO THE
20 AMOUNT OF FEDERAL FUNDS RECEIVED UNDER SUBSECTION (A) OF THIS SECTION
21 DURING THE MOST RECENTLY COMPLETED FISCAL YEAR.

22 ~~(C)~~ ~~(1)~~ FOR FISCAL YEAR 2004 AND EACH SUBSEQUENT FISCAL YEAR, THE
23 GOVERNOR SHALL PROVIDE FUNDS IN THE BUDGET FOR THE SUBCABINET FOR
24 CHILDREN, YOUTH, AND FAMILIES RESOURCE FUND ESTABLISHED UNDER ARTICLE
25 49D OF THE CODE IN AN AMOUNT EQUAL TO:

26 ~~(I)~~ THE AMOUNT OF FEDERAL FUNDS RECEIVED UNDER
27 SUBSECTION (A) OF THIS SECTION DURING THE MOST RECENTLY COMPLETED
28 FISCAL YEAR;

29 ~~(II)~~ (II) LESS ANY ADMINISTRATIVE COSTS INCURRED BY THE
30 DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT OF JUVENILE
31 JUSTICE, AND THE DEPARTMENT OF HUMAN RESOURCES IN IMPLEMENTING THE
32 PROGRAMS REQUIRED UNDER THIS SECTION; AND

33 ~~(III)~~ (III) SUBJECT TO THE ADJUSTMENT IN ACCORDANCE WITH
34 SUBSECTION (E) OF THIS SECTION.

35 (2) THE FUNDS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION
36 SHALL BE USED BY THE SUBCABINET FOR CHILDREN, YOUTH, AND FAMILIES TO
37 CREATE AN INTERAGENCY POOL OF FUNDS TO PROVIDE SERVICES TO CHILDREN
38 WITH DISABILITIES.

1 (3) THE POOL OF INTERAGENCY FUNDS ESTABLISHED UNDER THIS
2 SUBSECTION SHALL BE USED TO FUND THE COMMUNITY-BASED SERVICES AND
3 COMMUNITY-BASED OUT-OF-HOME PLACEMENTS NEEDED BY CHILDREN WITH
4 MENTAL OR DEVELOPMENTAL DISABILITIES NOT IN STATE CUSTODY, REGARDLESS
5 OF ELIGIBILITY FOR THE STATE MEDICAL ASSISTANCE PROGRAM, IF:

6 (I) THE CHILD IS IN AN OUT-OF-HOME PLACEMENT AND HAS
7 BEEN RECOMMENDED FOR DISCHARGE BUT THE CHILD'S FAMILY IS UNWILLING OR
8 UNABLE TO HAVE THE CHILD RETURN HOME; OR

9 (II) THE CHILD REMAINS IN THE HOME BUT THE CHILD'S FAMILY IS
10 UNABLE TO PROVIDE APPROPRIATE CARE FOR THE CHILD WITHOUT ADDITIONAL
11 SERVICES AND THE CHILD IS EITHER AT RISK OF REQUIRING AN OUT-OF-HOME
12 PLACEMENT OR THE TREATING PROFESSIONALS HAVE RECOMMENDED AN
13 OUT-OF-HOME PLACEMENT.

14 (D) (1) ~~IF FUNDS ARE PROVIDED UNDER SUBSECTION (C) OF THIS SECTION,~~
15 THE GOVERNOR'S OFFICE FOR CHILDREN, YOUTH, AND FAMILIES SHALL ADOPT
16 REGULATIONS TO CARRY OUT THE PROVISIONS OF SUBSECTION (C)(3) OF THIS
17 SECTION.

18 (2) THE REGULATIONS SHALL:

19 (I) INCLUDE THE CRITERIA FOR ELIGIBILITY AND FOR
20 PRIORITIZATION OF ELIGIBLE CHILDREN; AND

21 (II) BE DEVELOPED WITH INPUT FROM PARENTS OF A CHILD WITH
22 DISABILITIES, GROUPS REPRESENTING FAMILIES OF POTENTIALLY ELIGIBLE
23 CHILDREN, ADVOCACY ORGANIZATIONS, THE PROTECTION AND ADVOCACY SYSTEM
24 FOR PERSONS WITH DISABILITIES, PROVIDERS, LOCAL AGENCIES SERVING
25 CHILDREN WITH DISABILITIES, AND SUBCABINET AGENCIES.

26 (E) (1) NOTHING IN THIS SECTION IS INTENDED TO RESULT IN THE
27 REDUCTION OF FEDERAL FUNDS AVAILABLE TO THE DEPARTMENT OF HUMAN
28 RESOURCES OR THE DEPARTMENT OF JUVENILE JUSTICE UNDER TITLE IV-E OF THE
29 SOCIAL SECURITY ACT FOR THE ROOM AND BOARD COSTS OF ELIGIBLE RESIDENTIAL
30 CARE.

31 (2) IF, AS A RESULT OF ACTIONS TAKEN UNDER THIS SECTION, THE
32 FEDERAL MATCHING FUNDS AVAILABLE TO THE DEPARTMENT OF HUMAN
33 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE UNDER TITLE IV-E OF
34 THE SOCIAL SECURITY ACT ARE REDUCED BECAUSE THE PERCENTAGE OF
35 RESIDENTIAL CARE COSTS ALLOCATED TO TITLE IV-E IS REDUCED, THE GOVERNOR
36 SHALL ADJUST THE AMOUNT OF FUNDS PROVIDED UNDER SUBSECTION (C) OF THIS
37 SECTION TO PREVENT ANY RESULTING LOSS TO THE DEPARTMENT OF HUMAN
38 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE.

39 (3) THE ADJUSTMENT OF FUNDS UNDER PARAGRAPH (2) OF THIS
40 SUBSECTION SHALL BE BASED ON DETERMINING THE AMOUNT OF TITLE IV-E
41 REIMBURSEMENT THAT WOULD HAVE BEEN RECEIVED BY THE DEPARTMENT OF

1 HUMAN RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE PRIOR TO
2 OCTOBER 1, 2003 USING THE CURRENT PERCENTAGE OF RESIDENTIAL CARE COSTS
3 THAT IS ALLOCATED TO TITLE IV-E.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
5 Health and Mental Hygiene shall monitor the status of the application for a waiver
6 amendment from the Centers for Medicare and Medicaid Services applied for in
7 accordance with § 15-136 of the Health - General Article as enacted by Section 1 of
8 this Act. The Department, within 5 working days of the date of the approval or denial
9 of the waiver amendment, shall notify the Department of Legislative Services, in
10 writing, at 90 State Circle, Annapolis, Maryland, 21401. If the waiver amendment is
11 denied by the Centers for Medicare and Medicaid Services, at the end of the date on
12 which the Department of Legislative Services receives notice of the denial, with no
13 further action required by the General Assembly, this Act shall be abrogated and of no
14 further force and effect.

15 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect October 1, 2003.